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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/584,809

10/16/2008

Tomoyuki Okada

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5054

52044

7590

09/16/2010

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EXAMINER

DUNN, MISHAWN N

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/584,809	<b>Applicant(s)</b> OKADA ET AL.	
	<b>Examiner</b> MISHAWN DUNN	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 4-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 and 2 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In the state of the art, transitory signals are commonplace as a medium for transmitting computer instruction and thus, in the absence of any evidence to the contrary and give the broadest reasonable interpretation, the scope of a "recording medium" covers a signal per se.

Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 13 defines a program embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. Claims 1, 3, 13, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Yahata et al. (US Pub. No. 2006/0045481).

4. Consider claim 1. Yahata et al. teaches a recording medium (para. 0064), comprising: a digital stream (para. 0070); a plurality of pieces of playback path information, each indicating a playback path for the digital stream (para. 0079; fig. 7); and a control program instructing a playback device to play the digital stream using the playback path information, wherein the control program includes a selection procedure which causes the playback device to select at least one of the pieces of playback path information using a value stored in a status register (paras. 0235-0253), the value indicating an age of a user set on the playback device (para. 0248; inherent that a user age has been set).

5. Consider claim 3. Yahata et al. teaches a playback device (fig. 27), comprising: an execution unit operable to execute a control program recorded on a recording medium; and a playback unit operable to play a digital stream recorded on the recording medium (para. 0256), wherein the recording medium has a plurality of pieces of playback path information recorded thereon (para. 0079; fig. 7), the execution unit selects at least one of the pieces of playback path information according to the control program, and the playback unit plays the digital stream based on the selected at least one of the pieces of playback path information (paras. 0138-0140).

6. Consider claim 13. Yahata et al. teaches a program causing a computer to perform playback processing of a digital stream (claim 4) using playback path information (para. 0079; fig. 7) and to select, in a case where a plurality of pieces of the

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playback path information are recorded on a recording medium having the digital stream recorded thereon (paras/ 0138-0140), at least one of the pieces of the playback path information using a value stored in a status register indicating an age of a user of the computer (para. 0248; inherent that a user age has been set.

7. Claim 14 is rejected using similar reasoning as the corresponding claims above.

### ***Allowable Subject Matter***

8. Claims 4-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISHAWN DUNN whose telephone number is (571)272-7635. The examiner can normally be reached on Monday - Friday 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MISHAWN DUNN/  
Examiner, Art Unit 2621  
September 7, 2010

/JAMIE JO ATALA/  
Primary Examiner, Art Unit 2621